



**Cornell University
ILR School**

NYS PERB Contract Collection – Metadata Header

This contract is provided by the Martin P. Catherwood Library, ILR School, Cornell University. The information provided is for noncommercial educational use only.

Some variations from the original paper document may have occurred during the digitization process, and some appendices or tables may be absent. Subsequent changes, revisions, and corrections may apply to this document.

For more information about the PERB Contract Collection, see
<http://digitalcommons.ilr.cornell.edu/perbcontracts/>

Or contact us:

Catherwood Library, Ives Hall, Cornell University, Ithaca, NY 14853
607-254-5370 ilrref@cornell.edu

Contract Database Metadata Elements

Title: **Tusten, Town of and Town of Tusten Highway Department Unit, CSEA Local 1000, AFSCME, AFL-CIO, Sullivan County Local 853 (2013)**

Employer Name: **Tusten, Town of**

Union: **Town of Tusten Highway Department Unit, CSEA, AFSCME, AFL-CIO**

Local: **Sullivan County Local 853, 1000**

Effective Date: **01/01/13**

Expiration Date: **12/31/16**

PERB ID Number: **9193**

Unit Size: **N/A**

Number of Pages: **25**

For additional research information and assistance, please visit the Research page of the Catherwood website - <http://www.ilr.cornell.edu/library/research/>

For additional information on the ILR School - <http://www.ilr.cornell.edu/>

**COLLECTIVE
BARGAINING
AGREEMENT**

by and between the

TOWN OF TUSTEN

and the

**CIVIL SERVICE EMPLOYEES
ASSOCIATION, INC.**

LOCAL 1000, AFSCME, AFL-CIO

**Town of Tusten Unit
Sullivan County Local 853**

January 1, 2013 – December 31, 2016

Table of Contents

1	CONDITION AND SCOPE OF AGREEMENT	2
1.1	Notice of Agreement	2
2	MANAGEMENT RIGHTS	2
2.1	Management Rights Clause	2
3	UNION RIGHTS	2
3.1	Recognition	2
3.2	Union Membership / Agency Shop	2
3.3	Leave for Contract Administration	2
3.4	Leave for Negotiations	2
3.5	Access to Town Premises	2
4	EMPLOYEE RIGHTS	2
4.1	Probation	2
4.2	Seniority	2
4.3	Layoff & Recall Procedure	2
4.4	Personnel File	2
5	VACANCIES & PROMOTIONS	2
5.1	Appointment to Vacancies	2
6	HOURS OF WORK	2
6.1	Work Schedule	2
6.2	Additional Hours of Work	2
6.3	Meal & Rest Periods	2
7	COMPENSATION	2
7.1	Wage Rates	2
7.2	Premium Pay for Overtime	2
7.3	Call-In Pay	2

7.4	Pay Period _____	3
8	PAID LEAVE _____	3
8.1	Holidays _____	3
8.2	Vacation Leave _____	3
8.3	Sick Leave _____	3
8.4	Personal Leave _____	3
8.5	Bereavement Leave _____	3
8.6	Jury Duty _____	3
9	UNPAID LEAVE _____	3
9.1	Leaves of Absence Without Pay _____	3
10	MEDICAL _____	3
10.1	Medical Insurance _____	3
10.2	Medical Insurance Buy-Out _____	3
10.3	Pre-Tax Medical, Dental, Vision, and Dependent Care Expenses _____	3
11	DISABLED EMPLOYEES _____	3
11.1	Workers' Compensation Insurance _____	3
11.2	Short-Term Disability Insurance _____	3
11.3	Transitional Duty Program _____	3
12	RETIREMENT BENEFITS _____	3
12.1	Medical Insurance for Retired Employees _____	3
13	GENERAL PROVISIONS _____	3
13.1	Work Accouterments _____	3
13.2	Special Licenses _____	3
14	DUE PROCESS PROCEDURES _____	3
14.1	Grievance Procedure _____	3
14.2	Disciplinary Procedure _____	3
15	APPLICATION OF AGREEMENT _____	3

15.1	Duration of Agreement	4
15.2	Impasse in Negotiations	4
15.3	Complete Agreement	4
15.4	Savings Clause	4
15.5	Legislative Action	4
15.6	Execution of Agreement	4
APPENDIX A – RANDOM DRUG & ALCOHOL TESTING POLICY		4

1 CONDITION AND SCOPE OF AGREEMENT

1.1 Notice of Agreement

1.1.1 Parties to Agreement: This Collective Bargaining Agreement is made by and between the Town of Tusten, hereinafter referred to as the "Town", and the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO, for the Town of Tusten Unit, Sullivan County Local 853, hereinafter referred to as the Union".

1.1.2 Preamble: Preamble It is the intent and purpose of the parties that this Collective Bargaining Agreement covering rates of pay, hours of work, and conditions of employment will promote and establish a basis for securing cooperation, harmony, and good will between the Town, its officials and employees, and the Union and its members.

2 MANAGEMENT RIGHTS

2.1 Management Rights Clause

2.1.1 Nothing in this Collective Bargaining Agreement shall be construed as delegating the authority conferred by law and any elected or appointed official of the Town of Tusten or in any way to reduce or abridge such authority. The rights and responsibilities of the Town include, but are not necessarily limited to, the following: to determine the standards of services to be offered by the Town of Tusten not inconsistent with applicable law; to direct employees in their respective positions; to hire, promote, transfer, assign and retain employees and to suspend, demote, discharge or take disciplinary action against employees; to relieve employees from duties because of lack of work, or for other legitimate reasons; to determine the methods, means and personnel by which such operations are to conducted; to maintain the efficiency of government operation entrusted to them; to take whatever action may be necessary to carry out the missions of any department, office or agency concerned in a situation of emergency.

3 UNION RIGHTS

3.1 Recognition

3.1.1 Bargaining Unit: The Town of Tusten recognizes the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO, (CSEA) as the sole and exclusive representative for all full-time or part-time permanent, provisional, or probationary employees in the Town's Highway Department, with the exception of the Highway Superintendent, temporary employees (as defined by Civil Service), seasonal employees (as defined by Civil Service), and clerical employees. The use of temporary or seasonal employees will not compromise bargaining unit exclusivity.

Job duties will be consistent with Sullivan County Civil Service.

3.1.2 Exclusive Representative: The Town recognizes the Civil Service Employees Association (CSEA) as the sole and exclusive representative for collective negotiations, grievances, and matters which may be appealed to the Public Employment Relations Board, or the courts.

3.1.3 Deputy Superintendent of Highways: In the event a member of the bargaining unit is appointed Deputy Superintendent of Highways, that person will remain in the bargaining unit and continue to receive the full benefits of the collective bargaining agreement. In accordance with Highway Law, the Town may rescind the appointment at any time and such action will not be subject to the grievance procedure.

In the event someone who is not a member of the bargaining unit is appointed Deputy Superintendent of Highways, that person will not be included in the bargaining unit and may only perform bargaining unit work during emergency situations.

3.1.4 Full-time Employee: For the purpose of this Collective Bargaining Agreement, a "full-time employee" will mean an employee who is regularly scheduled to work forty hours per week throughout the year.

3.1.5 Part-time Employee: For the purpose of this Collective Bargaining Agreement, a "part-time employee" will mean an employee who is regularly scheduled to work less than twenty-six hours per week throughout the year. No employee will be regularly assigned to work between twenty-six and forty hours per week.

3.2 Union Membership / Agency Shop

3.2.1 Union Membership: The Union shall have the exclusive right to payroll dues deductions. An employee who chooses to become a member of the Union shall sign an authorization card for dues deduction and submit it to the Union. The Town will deduct membership dues from the paycheck of each employee who has signed a membership card authorizing such deductions. Such dues will be remitted to the Treasurer, Civil Service Employees Association, Inc., 143 Washington Avenue, Albany, New York 12210 on a payroll period basis. The Union shall notify the Town of the amount to be deducted.

3.2.2 Agency Shop: The Town agrees to deduct an agency shop fee from the wages of any employee represented by the CSEA who is not a member of the Union. Such fee shall be an amount equivalent to the membership dues. The Town shall forward this fee, along with a listing of those employees who are agency fee payers only, to the Treasurer, Civil Service Employees Association, Inc., 143 Washington Avenue, Albany, New York, 12210, on a payroll period basis.

3.2.3 Union-sponsored Insurance Plans: The CSEA shall have exclusive rights to payroll deductions that are authorized by employees covered by this Collective Bargaining Agreement for Union sponsored insurance and benefit program premiums and the PEOPLE fund. Such deductions shall be remitted to the Treasurer, CSEA, Inc., 143 Washington Avenue, Albany, New York 12210 on a payroll period basis.

3.2.4 Indemnification Clause: The Union, on its own behalf, and on behalf of each employee authorizing dues deductions, hereby releases the Town, its officers, agents and employees, from any and all liability whatsoever for the use or application of dues or agency fees after such monies have been deducted and remitted to the Union at their business address.

3.3 Leave for Contract Administration

3.3.1 Investigation and Presentation of Grievances: The Unit President will be allowed release time, without loss of pay or leave credits, for the following activities: to investigate and present grievances to management; to attend grievance arbitration hearings; and, to attend conferences and hearings of the State of New York Public Employment Relations Board.

3.3.2 Requests for Release Time: Requests for the use of release time shall be made to the Superintendent of Highways as far in advance as possible. Requests will not be unreasonably denied.

3.4 Leave for Negotiations

3.4.1 Eligible Employees: Unless otherwise agreed to by the parties, at any one time no more than two employees designated by the Union will receive release time, without loss of pay or leave credits, for the sole purpose of attending negotiation meetings scheduled by the Town.

3.5 Access to Town Premises

3.5.1 Union Representatives: The Union and its designated representatives shall have the sole and exclusive right with respect to any other employee organization to visit members of the bargaining unit, during working hours, to administer this Collective Bargaining Agreement and to explain CSEA-sponsored benefits and programs. The Union representative will notify the Superintendent of Highways prior to the visit, with a minimum of one day advance notice. Such visit shall be approved on the condition that it not interfere with the operational needs of the Highway Department.

3.5.2 Town Premises: The Union and its designated representatives shall have the sole and exclusive right to meet with members of the bargaining unit after normal working hours, on the Town's premises, or property, for the purpose of discussing terms and conditions of employment and CSEA-sponsored benefits and programs.

4 EMPLOYEE RIGHTS

4.1 Probation

4.1.1 Length of Probationary Period: The probationary period for an employee appointed to a position in the competitive class will be in accordance with the rules and regulations of the local Civil Service agency. Except as otherwise provided in the rules and regulations of the local Civil Service, all new employees appointed to a position in the non-competitive or labor class will serve a nine-month probationary period before becoming permanent employees. The Town may extend a new employee's probation up to a maximum of twelve months.

4.2 Seniority

4.2.1 Service Seniority: Seniority shall be defined as length of continuous service from the employee's first date of hire. A leave of absence of one year or less will not constitute a break in service.

4.2.2 Computation of Seniority: For the purpose of calculating the length of service of a full-time employee, one year will be credited for each year of service beginning on the employee's initial date of hire as a full-time employee. For the purpose of calculating length of service of a part-time employee, one year of service will be credited for every 2080 hours of paid work and paid leave. In the event a part-time employee is appointed to a position as a full-time employee, the seniority accrued as a part-time employee will be added to the seniority as a full-time employee.

4.2.3 Same Length of Service: In the event two or more employees have the same length of service, the employee with the earliest day of hire will have greater seniority. In the event two or more employees have the same date of hire, such employees will have their individual seniority determined by lot.

4.3 Layoff & Recall Procedure

4.3.1 First to be Laid Off: Layoffs, as may be required for economic reasons or consolidation of services, in the number of positions in a job title in the competitive class within the bargaining unit, will be in accordance with the rules and regulations of the local Civil Service agency. In the event of a reduction in the number of positions in a job title in the non-competitive or labor class within the bargaining unit, the layoff shall occur in inverse order of seniority.

4.3.2 Bumping Rights: An employee who is laid off may displace (bump) an employee in an equal or lower job title within the bargaining unit, provided the employee has more service seniority than the employee being bumped and the employee is fully qualified to perform the duties of the job title. Following the same procedure, the employee who is bumped may displace an employee in an equal or lower job title within the bargaining unit.

4.3.3 Recall to Same Job Title: In the event there is a vacancy in the job title in the competitive class where a layoff occurred, recall will be in accordance with the rules and regulations of the local Civil Service agency. In the event there is a vacancy in the job title in the non-competitive or labor class where a layoff occurred, the laid-off employee who was within the affected job title with the most service seniority will be offered the position.

4.3.4 Notice of Recall to Same Job Title: The Town will notify the laid-off employee of the vacancy in 4.3.3 by means of certified mail sent to the employee's last known address. In the event a laid-off employee in the non-competitive or labor class does not respond within fourteen calendar days from the date the notice was mailed, either in person or in writing, or the employee rejects the offer, the employee shall forfeit all recall rights.

4.3.5 Duration of Recall Rights: An employee in the non-competitive or labor class who is laid off will be eligible for recall under 4.3.3, above, for up to two years from the date the employee was laid off. Thereafter, the employee will no longer be notified of vacancies within the bargaining unit nor have any recall rights to a position within the bargaining unit.

4.4 Personnel File

4.4.1 Location of Files: Original personnel records for current employees will be kept in a location designated by the Town Supervisor and will be maintained and controlled by the Town Supervisor. Employee medical records will be kept in a separate locked file apart from the employee's personnel file and will be maintained and controlled by the Town Supervisor. Substance testing records will be kept in a separate locked file apart from the employee's personnel file and will be maintained and controlled by the Town Supervisor.

4.4.2 Employee Access: A current employee may review and copy the contents of the employee's own personnel file. Certain documents such as attorney work products, confidential memorandums, letters of reference, and unsolicited complaints will be kept in a separate "Town file", which the employee will not have access to. The employee must make an appointment with the Town Supervisor. The appointment will be available within a reasonable period of time. Someone designated by the Town Supervisor must be present when the employee inspects the file. The employee may not remove or place any material in the file without the approval of the Town Supervisor, or designee, except, the employee has the right to provide a response to any document that the employee contests as either unfair or incorrect.

5 VACANCIES & PROMOTIONS

5.1 Appointment to Vacancies

5.1.1 Selection: The selection of internal and/or external applicants to fill positions will be at the sole discretion of the Superintendent of Highways. Such action shall not be subject to the Grievance Procedure. The Superintendent of Highways will be the sole judge with respect to the degree to which applicants meet job qualifications.

5.1.2 Probationary Period (Promotion): An employee who is promoted into a new position in the non-competitive class shall be placed on probation for a period of twenty-six weeks. At any time during this period, the Town may rescind the promotion and the employee will be reinstated to the employee's previous position. At any time during the probationary period, the employee may retreat to the employee's previous position. The decision as to rescinding the promotion will not be subject to the Grievance Procedure or Disciplinary Procedure.

6 HOURS OF WORK

6.1 Work Schedule

6.1.1 Normal Workweek: The normal workday/workweek shall be 6:00 a.m. to 4:30 p.m., Monday through Thursday, 40 hours per week, 10 hours per day. Employees shall have a one-half-hour lunch period daily, which will not be included in the workday.

6.2 Additional Hours of Work

6.2.1 Procedure for Assigning Additional Hours: The opportunity to work additional hours will be assigned on an equitable basis.

6.3 Meal & Rest Periods

6.3.1 Meal Periods A full-time employee, and a part-time employee who works more than four hours in a given day, will receive an unpaid, duty-free meal period not to exceed thirty minutes. Meal periods will normally be in the middle of the employee's workday. Meal periods will be designated by the Superintendent of Highways, or designee, in accordance with the needs and requirements of the department.

6.3.2 Observance of Meal Periods: An employee who works more than six hours in a given day is required to take the scheduled meal period. An employee may not work through the meal period to make up lost work time. The meal period may not be taken at the end of an employee's workday in order to leave work before the normal quitting time.

6.3.3 Overtime Meal Period: Employees who are required to report to work immediately prior to the start of their work day or required to continue working after the end of their work day, shall be entitled to a ½ hour paid meal break, provided the early starting time or late finishing time totals three hours or more.

6.3.4 Overtime Meal Allowance: Employees shall receive a meal allowance of \$5.00 for each continuous three hours of overtime.

6.3.5 Rest Periods: Employees shall be entitled to one 20-minute work break per day, included in the workday, from 9:30 a.m. to 9:50 a.m. If working conditions do not allow for a break at that time, an alternate break period may be arranged with the Superintendent of Highway or the Working Supervisor. An employee who chooses not to take a rest period will not be entitled to leave before the normal quitting time and will not receive extra pay for the time worked.

7 COMPENSATION

7.1 Wage Rates

7.1.1 Pay Schedule: The base wage rates shall be as follows, which reflects a wage freeze for 2013 and increases of three percent on January 1, 2014, three percent on January 1, 2015, and three percent on January 1, 2016.

	1/1/2013	1/1/2014	1/1/2015	1/1/2016
Working Supervisor	\$22.53	\$23.21	\$23.90	\$24.62
HMEO	\$21.06	\$21.69	\$22.34	\$23.01
MEO	\$20.24	\$20.85	\$21.47	\$22.12

7.1.2 Lead Mechanic Duties: In the event an employee is assigned by the Superintendent of Highways to take lead responsibilities for the maintenance of highway machinery and equipment, such employee will receive a differential of two dollars per hour above the employee's "job rate" as set forth in the pay schedule above. The assignment of this function is at the sole discretion of the Superintendent of Highways subject to appropriations in the annual budget for the highway department.

7.1.3 New Hire Rate: Newly hired employees will be paid \$.50 per hour less than the job rate, for the duration of their probation. (Refer to 4.1.1, above).

7.1.4 Longevity Bonus: The longevity increment for all full-time employees shall be four hundred dollars to be paid on the anniversary date of the employee's fifth year of continuous employment and again on the anniversary of each year thereafter until the employee has completed ten years of continuous service.

The longevity increment for all full-time employees shall be six hundred dollars to be paid on the anniversary date of the employee's tenth year of continuous employment and again on the anniversary of each year thereafter until the employee has completed fifteen years of continuous service.

The longevity increment for all full-time employees shall be eight hundred and twenty five dollars to be paid on the anniversary date of the employee's fifteenth year of continuous employment and again each year thereafter until the employee has completed twenty years of continuous service.

The longevity increment for all full-time employees shall be nine hundred and fifty dollars to be paid on the anniversary date of the employee's twentieth year of continuous employment and again each year thereafter on the anniversary of the employee's succeeding years of continuous employment.

7.2 Premium Pay for Overtime

7.2.1 Overtime Rate: An employee will be paid one and one-half times the employee's regular hourly rate of pay for all authorized time worked over the employee's regular scheduled workday or over forty hours in a given workweek.

7.2.2 Credit for Paid Leave: Holidays, vacation leave, personal leave, bereavement leave, and jury duty leave will be included as time worked in the computation of overtime. **Sick leave** will be included as time worked when such leave is scheduled in advance (e.g. for medical appointments), otherwise, sick leave will **NOT** be included in the computation of overtime.

7.2.3 Compensatory Time: Employees shall have the option of being paid for overtime in cash or compensatory time. In any calendar year, an employee may convert a maximum of fifty hours of overtime work between December 1st and November 30th into seventy-five hours in compensatory leave credits. An employee must use all compensatory leave credits within the period beginning December 1st and ending November 30th or receive payment on the first pay date following November 30th at the employee's then current rate of pay.

7.2.4 Scheduling Compensatory Leave: An employee must receive prior approval from the Superintendent of Highways, or designee, to use compensatory leave credits. The Superintendent of Highways will have total discretion in the approval of compensatory time off.

7.3 Call-In Pay

7.3.1 Compensation: Employees who are called back to work after normal working hours that are in addition to and do not attach to the employee's regular working hours, will be guaranteed at least two hours of work. In the event the employee does not work the full two hours, the employee will be compensated for the remaining time at one and one-half times the employee's regular rate of pay.

7.3.2 Start Time: The pay for an employee who is called out for after-hours duty will begin when the employee arrives at the Highway Garage.

7.4 Pay Period

7.4.1 Payroll Period: Wages will be paid every two weeks. The payroll period will begin Monday at 12:01 a.m. and end fourteen calendar days later on Sunday at 11:59 p.m.

7.4.2 Pay Date: Paychecks will be issued on the Wednesday following the end of the payroll period. In the event the pay date is a designated holiday, paychecks will be distributed on the previous workday.

8 PAID LEAVE

8.1 Holidays

8.1.1 Designated Holidays: Employees shall have the following paid holidays. When a holiday falls on a Saturday, it will be observed on the preceding Friday. When a holiday falls on a Sunday, it will be observed on the following Monday.

- New Year's Day
- Martin Luther King Day
- Memorial Day
- Independence Day
- Labor Day
- Veterans' Day
- Thanksgiving Day
- Christmas Day

Group Floating Holidays: In addition to the designated holidays listed in 8.1.1, all employees will receive four "group floating holidays" each calendar year. Each floating holiday must be taken by the entire bargaining unit. The dates these floating holidays occur will be determined each year by mutual agreement between the Superintendent of Highways and the bargaining unit. Each floating holiday must be used in whole-day increments.

8.1.2 Holiday Pay Eligibility: Full-time employees and part-time employees are eligible for paid holidays upon hire.

8.1.3 Holiday Pay (Not Assigned to Work): A full-time employee or part-time employee who **does not** work on a designated holiday will be paid for the day at the employee's regular daily rate of pay; the part-time employee will not be paid for the day if the day the holiday is observed by the Town is not a normally scheduled workday. A part-time employee's schedule shall not be changed to avoid holiday pay.

8.1.4 Holiday Pay (Assigned to Work): When an employee is required to work on a holiday, the employee shall be paid for the holiday at the regular rate of pay, and shall be compensated for all hours worked at one and one-half the employee's regular rate of pay.

A regular full-time employee who does work on Thanksgiving Day will be paid for all hours worked at two times (rather than one and one-half times) the employee's regular hourly rate, plus "holiday pay".

A regular full-time employee who does work on December 25th will be paid for all hours worked at two times (rather than one and one-half times) the employee's regular hourly rate, plus "holiday pay" if December 25th is a regular work day.

8.1.5 Holiday Pay During Paid Leaves: In the event a designated holiday occurs on an employee's regularly scheduled workday and the employee is on a paid leave of absence, the employee will receive holiday pay for the day and the employee's leave credits will not be charged for that day.

8.2 Vacation Leave

8.2.1 Allowance (front-loaded on January 1st): Full-time employees shall be entitled to paid vacation leave according to the following schedule. A part-time is not eligible for paid vacation leave but may be allowed to take time-off without pay provided the employee has prior approval from the Superintendent of Highways.

An employee who is hired after January 1st in any given year will be credited with paid vacation leave prorated by the number of months to be worked in the remainder of that calendar year, with forty hours equal to 100%.

A full-time employee will be credited with **forty hours** of paid vacation leave on the January 1st preceding the employee's first anniversary date.

A full-time employee will be credited with **eighty hours** of paid vacation leave on the January 1st preceding the employee's **second** anniversary date and each year thereafter until the year the employee is to complete seven years of employment.

A full-time employee will be credited with **one hundred and twenty** hours of paid vacation leave on the January 1st preceding the employee's **seventh** anniversary date and each year thereafter until the year the employee is to complete twelve years of employment.

A full-time employee will be credited with **one-hundred and sixty hours** of paid vacation leave on the January 1st preceding the employee's **twelfth** anniversary date and each year thereafter until the employee leaves employment.

8.2.2 Accrual During Leaves of Absence: In the event an employee is absent from work without pay for more than thirty calendar days in a calendar year, *excluding* an unpaid leave of absence due to a Workers' Compensation claim, the annual allowance of vacation leave to be credited for the next year will be adjusted on a prorated basis, with 260 days equal to 100%.

8.2.3 Accumulation: An employee is to use all vacation credits before December 31st of each year. However, in the event an employee is unable to take vacation leave due to no fault of the employee, the employee may "carry" the excess for six months or receive payment at the employee's rate of pay on December 31st.

8.2.4 Annual Buy-Back: An employee may elect to receive cash payment for up to forty hours of accumulated vacation leave credits during any calendar year (January 1 through December 31). Payment will be made within the pay period following the date the request was made. Payment will be at the employee's then current rate of pay.

8.2.5 Scheduling: Between December 1 and March 31, all requests for leave that require prior approval shall be subject to the approval of the Highway Superintendent and consideration of the operational needs of the Highway Department.

In selecting vacation dates, preference shall be given to employees in order of their seniority. Use of vacation leave must be approved by the Superintendent of Highways, or designee. The Superintendent, or designee, shall have the right to recall an employee from vacation in time of emergency if the employee is available.

All vacation leave accruals may be used in hourly increments. An employee may take vacation leave only after it has been credited.

8.2.6 Termination of Employment: Employees who are separating from Town service shall have their leave accruals pro-rated to their final day of service. The Town shall pay employees for their unused vacation leave when they leave their employment with the Town at the employee's then current rate of pay. The Town may request that the arbitrator in a disciplinary hearing impose loss of vacation leave credits as part of the "just cause" penalty. In case of the death of the employee, the Town will pay the employee's estate for any unused vacation leave.

8.3 Sick Leave

8.3.1 Allowance (Monthly Accrual): For employees hired before July 1, 2012, during the first five years of employment, a full-time employee will be credited with **six** hours of paid sick leave after completion of each month of employment. After five continuous years of employment, a full-time employee will be credited with **eight** hours of paid sick leave after completion of each month of employment.

For employees hired on or after July 1, 2012, a full-time employee will be credited with **six** hours of paid sick leave after completion of each month of employment.

A part-time employee will be credited with paid sick leave prorated by the average number of hours the employee normally works in a workweek, with forty hours equal to 100%.

8.3.2 New Employees: A newly hired employee will not be credited with sick leave credits prior to completing six months of continuous employment, at which time a full-time employee will be credited with forty-eight hours of paid sick leave; a part-time employee will be credited with paid sick leave prorated by the average number of hours the employee normally works in a workweek, with forty hours equal to 100%.

8.3.3 Accrual During Leaves of Absence: An employee will be credited with sick leave credits while on a paid leave of absence, but not while on an unpaid leave of absence in excess of twelve days in the calendar month, *excluding* an unpaid leave of absence due to a Workers' Compensation claim.

8.3.4 Accumulation: Employees may accrue up to thirteen hundred and twenty hours (165 eight-hour days) of sick leave. Any sick leave credits in excess of the maximum will be cancelled.

8.3.5 Use of Sick Leave: An employee may use sick leave credits for an illness or injury that inhibits the employee's ability to perform the duties of the employee's job. An employee may use sick leave credits for medical and dental appointments that cannot be scheduled during non-work hours. All sick leave accruals may be used in hourly increments. An employee may take paid sick leave only after it has been credited.

8.3.6 Family Sick Leave: An employee may use sick leave credits for family illness or injury only if the employee must provide direct care to an immediate family member. For purposes of family sick leave, "immediate family member" will mean the employee's parent, spouse, or child, including step-child and foster child.

8.3.7 Notification of Sick Leave: An employee who will be absent due to sickness must notify the Superintendent of Highways, or designee, at least fifteen minutes prior to the start of the workday, if physically able to do so.

8.3.8 Medical Verification: The Town may require medical verification of an employee's absence if the Town perceives the employee is demonstrating a pattern of sick leave abuse or to have used an excessive amount of sick leave. The Town may require medical verification of an employee's absence to verify that the employee is able to return to work with or without restrictions.

8.3.9 Retirement Credit: All employees who belong to the bargaining unit shall be eligible for retirement plan option 41-j, which allows for the crediting of up to 165 eight-hour days of unused, accrued sick leave as additional service credit.

8.3.10 Retirement Cash-Out: An employee hired before January 1, 2010 with at least eight years of service with the Town who retires and has been granted a retirement benefit from the New York State Employees' Retirement System, will be paid for up to two hundred and forty hours of unused sick leave, at the employee's discretion. Payment will be at the employee's rate of pay at the time of retirement. An employee hired on or after January 1, 2010 is not eligible for this provision and will not receive a settlement for unused sick leave.

8.3.11 Termination of Employment: An employee who resigns, is laid off, or leaves employment due to disciplinary action will not receive a settlement for unused sick leave. In the event an employee is recalled from a lay-off, the employee will be re-credited with the amount of sick leave that was accumulated at the time of the layoff.

8.4 Personal Leave

8.4.1 Allowance (front-loaded): For employees hired before July 1, 2012, a full-time employee will be credited with **thirty-four** hours of paid personal leave on January 1st of each year for use during the following twelve months.

For employees hired on or after July 1, 2012, a full-time employee will be credited with **twenty** hours of paid personal leave on January 1st of each year for use during the following twelve months.

8.4.2 New Employees: An employee who is hired after January 1st in any given year will be credited with paid personal leave prorated by the number of months to be worked in the remainder of that calendar year. Thereafter, the employee will be credited January 1st for use during that year.

8.4.3 Accumulation: An employee may not accumulate personal leave credits. Any personal leave credits remaining unused at close of business on the last day of the calendar year will be converted to sick leave credits.

8.4.4 Scheduling: Use of personal leave must be approved by the Superintendent of Highways, or designee. In the event there is an unforeseen emergency, the requirement for advance notice will be waived. All personal leave accruals may be used in hourly increments. An employee may take personal leave only after it has been credited.

8.4.5 Termination of Employment: An employee who resigns, retires, is laid off, or is terminated from employment due to disciplinary action will not receive payment for unused personal leave. In the event an employee is recalled from a lay-off, the employee will be re-credited with the amount of personal leave that was available at the time of the layoff.

8.5 Bereavement Leave

8.5.1 Immediate Family: In the event of a death of a full-time employee's immediate family member, the employee may take a leave of absence, without loss of pay or leave credits, for up to three scheduled workdays between date of the death and the day after the burial. For purposes of bereavement leave, immediate family shall be the employee's spouse, children, spouse's children, mother, father, brother, sister, grandmother, grandfather, grandchildren, mother-in-law, or father-in-law.

8.6 Jury Duty

8.6.1 Leave of Absence: In the event an employee is required to perform jury duty on a day the employee is scheduled to work, the employee will receive a leave of absence without loss of pay or leave credits.

8.6.2 Notification of Jury Duty: When an employee receives notice to report for jury duty, the employee must immediately submit a copy of the notice to the Superintendent of Highways.

8.6.3 Return to Duty: In the event the employee is released from jury duty on a given day and there are three or more hours remaining in the employee's scheduled workday, the employee must report to work. The employee will be allotted time to return home and prepare for work.

9 UNPAID LEAVE

9.1 Leaves of Absence Without Pay

9.1.1 General Terms: Absences taken beyond an employee's leave accruals shall be considered unauthorized (AWOL) unless prior written approval has been given from the Town Board. Subject to the approval of the Town Board, unpaid leaves of absence may be available to an employee for personal reasons including, but not limited to, personal illness, family responsibilities, and education.

9.1.2 Request for Unpaid Leave: The employee must submit such request and the reasons for the leave, in writing, to the Town Supervisor as soon as reasonably possible prior to planned commencement of the requested leave. The Town Board has sole discretion in approving such leave.

9.1.3 Conditions of Leave: The Town Board will specify the duration of an unpaid leave of absence and to impose such other terms, conditions and restrictions on the employee as the Town Board, in its discretion, deems appropriate.

9.1.4 Return to Work: An employee who fails to return from an unpaid leave of absence at the scheduled expiration date without giving proper notice to the Town Supervisor or Superintendent of Highways (including verbal notice) or receiving proper authorization shall be conclusively presumed to have voluntarily resigned from employment.

10 MEDICAL

10.1 Medical Insurance

10.1.1 Eligibility: The Town will make available a medical insurance plan and a prescription drug plan to each full-time employee and the employee's eligible family.

An employee may enroll in the Town-sponsored "EPO High Deductible \$2500/\$5000" plan in which the Town will fund the first half of the High Deductible through a Health Reimbursement Account (HRA).

An employee hired before **July 1, 2012** may elect to enroll in the "Empire Plan" made available through the New York State Health Insurance Plan (NYSHIP).

In no event shall the Town be required or obligated to pay or reimburse any portion of any doctor's bill, hospital bill, prescription bill, x-ray bill, laboratory bill, procedure bill, or any other medical bill or expense that is not covered or reimbursed by the insurance plan.

10.1.2 Date Coverage Begins: Coverage will begin on the first day of the month following the employee's first day of employment, provided all eligibility requirements of the plan are met and the requisite forms have been completed. Eligible employees and dependents may also enroll in the medical insurance plan during the annual open enrollment period or at the time of a qualified change in employment or family status, as defined by the Internal Revenue Service and the insurance carrier.

10.1.3 Change in Insurance Plans: The Town may change health insurance plans provided the alternative plan's benefit structure and provider network are substantially equivalent to the current plan. The Town will notify the Union at least sixty calendar days in advance of such changes, to allow the Union time to determine whether or not the proposed plan is substantially equivalent to the present coverage. If the Union disagrees that the proposed coverage is not substantially equivalent to the existing coverage, the Town and the Union shall submit the matter to binding arbitration to resolve the disagreement.

10.1.4 Premium Payment: The Town will pay fifty percent of the cost of the individual premium for employees with one year or less of employment. The Town will pay **eighty percent** of the cost of the individual, two-person, or family premium, as the case may be, for employees with more than one year of employment.

For an employee who elects the NYSHIP Empire Plan, effective January 1, 2013, the Town will pay **seventy-five percent** of the cost of the individual or family premium, as the case may be.

The employee's contribution to the medical insurance premium will be deducted from the employee's regular paycheck.

10.2 Medical Insurance Buy-Out

10.2.1 Eligibility: Full-time employees who are covered by another medical insurance plan, and do not wish to be covered by the Town's insurance, shall be eligible for a medical insurance buy-out. The employee must show proof of alternate medical insurance coverage and sign an appropriate waiver of medical insurance coverage. In the event an employee is married to another employee of the Town who is eligible for medical insurance, they will not be eligible for this buy-out.

10.2.2 Amount of Buy-Out: The employee will receive thirty-five percent of the Town's annual premium contribution for the coverage the employee is eligible for (individual, two-person, or family). For example, if the Town is contributing 80% of a \$15,000 premium for family coverage, the amount of the buy-out would be 35% of \$11,600, or \$4060. The buy-out is subject to applicable taxes.

10.2.3 Method of Payment: Payment of the buy-out will be made on or about December 1st of each year. In the event an employee opts out of the medical insurance plan during the calendar year, or is reinstated as per 10.2.4, the amount will be pro-rated accordingly.

10.2.4 Reinstatement: In the event the employee loses coverage under the alternate insurance plan, the employee may resume coverage under the medical insurance plan made available through the Town. Coverage will begin on the first of the month immediately following the employee giving notice, provided the employee gives such notice at least five business days prior to the first of the month and meets all eligibility requirements of the insurance plan. An employee may also elect to resume coverage under the medical insurance plan during the annual open enrollment period.

10.3 Pre-Tax Medical, Dental, Vision, and Dependent Care Expenses

10.3.1 Dental and Vision Reimbursement Account: On January 1st of each year, the Town will contribute five hundred dollars into a reimbursement account for the cost of dental care and vision care not covered by the insurance plan. All corresponding receipts must be submitted to the Town Supervisor prior to reimbursement. In the event the employee does not use all of the allotted dollars in a given year, the excess will be cancelled on December 31st of that year.

10.3.2 Eligibility: The Town agrees that it will adopt a flexible benefits spending plan in accordance with Internal Revenue Code Section 125.

10.3.3 Pre-Tax Insurance Premiums: An employee may elect to pay the employee's contribution towards medical insurance premiums with pre-tax dollars.

11 DISABLED EMPLOYEES

11.1 Workers' Compensation Insurance

11.1.1 Coverage: The Town shall provide workers compensation leave in accordance with NY State law. The Town will pay the employee's regular wages for the first five days of absence due to a job related injury, provided the injury was not related to the employee being under the influence of alcohol or illegal drugs.

11.1.2 Use of Leave Credits: When an employee is receiving compensation under the Workers Compensation Law on account of disability, the employee may elect, in writing, whether the employee desires to use accumulated sick leave credits to equal, but not exceed, the employee's regular daily rate of pay during the period of disability for which the employee receives compensation. After sick leave credits have been exhausted, the employee may use accrued compensatory leave credits, then personal leave credits, then vacation leave credits. Such written notice must be filed with the Superintendent of Highways with a copy to the Town Supervisor. When the insurance company makes payment, the Town shall be reimbursed for that portion of leave covered by insurance and the employee will be re-credited with the proportional amount of leave.

11.1.3 Continuation of Medical Insurance: The Town will continue medical insurance coverage for a lost time claim for up to three full months. Thereafter, an employee who is receiving Workers' Compensation payments for lost time **and** is drawing full pay by using accrued leave credits will continue to receive medical insurance benefits and the Town will continue to make its contributions provided the employee makes the required employee contribution. If the employee has exhausted all leave credits, the employee may continue medical insurance coverage in accordance with COBRA.

11.2 Short-Term Disability Insurance

11.2.1 Coverage: All employees shall receive disability insurance as provided by the standard coverage of New York State Disability Insurance, at no cost to the employee.

11.2.2 Use of Sick Leave Credits: An employee may draw from the employee's sick leave credits in conjunction with the short-term disability payments to equal, but not exceed, the employee's regular daily rate of pay. When the insurance company makes payment, the Town will be reimbursed for that portion of sick leave covered by the insurance and the employee will be re-credited with the proportional amount of sick leave. An employee may not use vacation or personal leave credits to supplement short-term disability.

11.2.3 Continuation of Medical Insurance: An employee who is receiving short term disability payments under this plan **and** is drawing full pay by using accrued sick leave credits will continue to receive medical insurance benefits and the Town will continue to make its contributions provided the employee makes the required employee contribution. If the employee has exhausted all sick leave credits, the employee may continue to be eligible for medical insurance coverage in accordance with COBRA. *For those employees enrolled in the New York State Health Insurance Program (Empire Plan), the premium may be waived in accordance with plan documents.*

11.3 Transitional Duty Program

11.3.1 Preamble: The purpose of this Transitional Duty Program is to allow an employee who is temporarily partially disabled to return to work in an assignment that meets both the needs of the Town and the medical limitations of the employee. In the event an employee is unable to perform the full duties and responsibilities of the employee's regular position, the Superintendent of Highways may, on a case-by-case basis, require such employee to return to work in a Transitional Duty assignment. The exercise of this Transitional Duty Program shall not establish any precedent or commitment to provide Transitional Duty assignments to any other employee at any time in the future.

11.3.2 Eligibility: The employee must be classified as partially disabled at fifty percent or less **and** the employee must have a prognosis of full recovery within six months. For the purpose of this program, full recovery is defined as the ability to perform the full duties of the job the employee held when injured. These medical findings will normally occur as a result of an examination by the employee's physician; any disputes will be submitted to a State Insurance Fund consulting physician. The Town will determine what documentation will be acceptable for establishing the employee's eligibility and determining the employee's physical limitations.

11.3.3 Transitional Duty Assignment: The assignment may not necessarily correspond with the employee's regular job duties. The assignment may involve performing some duties of the employee's regular position, some duties of another position, or a combination of tasks from several positions. The assignment may be at a different work location and/or have a different schedule than the employee's regular position.

11.3.4 Wages: While performing a Transitional Duty assignment, the employee will receive the employee's regular hourly rate of pay.

11.3.5 Duration of Assignment: A Transitional Duty assignment shall not exceed six months or the date of full recovery, whichever comes first. The Town may require a medical examination ordered by the Town as a condition of allowing the employee to return to full duties.

11.3.6 Refusal of Assignment: In the event the employee refuses a Transitional Duty assignment, or refuses to submit to a medical examination ordered by the Town, the matter will be referred to the Workers' Compensation insurance carrier or NYS Disability insurance carrier, as the case may be, for a benefit determination.

12 RETIREMENT BENEFITS

12.1 Medical Insurance for Retired Employees

12.1.1 Coverage: The Town offers medical insurance and prescription drug coverage to eligible full-time employees who were hired before **January 1, 2004** after such employee retires from Town employment and is receiving retirement benefits under the New York State Retirement System. Coverage is also available for the retiree's eligible spouse if the spouse was covered under the Town's medical insurance plan on the retiree's last date of employment with the Town and the spouse is not eligible to receive comparable medical insurance coverage under another plan. In the event the retiree predeceases the retiree's eligible spouse, the spouse may continue medical insurance and prescription drug coverage provided the spouse pays the full cost of the premiums. In the event of legal separation or divorce, the retiree's spouse shall not be eligible for coverage except as provided under COBRA.

12.1.2 Eligibility: To be eligible for coverage, the retiree must meet all of these requirements: 1) have at least twenty-five years of continuous service with the Town; 2) retire directly from the Town; and, 3) have been granted a retirement benefit from the New York State Employees' Retirement System. Notwithstanding the above, the Town may request that the arbitrator in a disciplinary hearing declare that the employee is not eligible for medical insurance or prescription drug coverage as part of the "just cause" penalty.

12.1.3 Premiums: The Town will pay fifty percent of the premium for individual coverage and, if applicable, thirty-five percent of the additional cost of the premium for family coverage.

12.1.4 Insurance Plan: The Town will make available the same medical insurance plan and prescription drug plan as it makes for active employees, as if the retiree were still actively employed by the Town.

12.1.5 Medicare: When the retiree or the retiree's eligible spouse, as the case may be, meets the eligibility criteria for Medicare coverage, primary coverage for that individual will be provided by Medicare. At that time, that individual may be required to enroll in a Medicare supplemental policy made available through the Town. The Town will reimburse that individual for the cost of the Medicare Part B premium only if it is so required by the insurance carrier.

13 GENERAL PROVISIONS

13.1 Work Accouterments

13.1.1 Uniforms: The Town agrees to continue the existing uniform service - eleven sets of shirts and pants per year, and regular cleaning, at no cost to the employees. The Town will also supply to each employee work gloves, rainwear, and any safety equipment necessary for the safe and healthful performance of the employee's job.

13.1.2 Clothing & Work Boot Allowance: The Town will provide each employee with an annual allowance of \$250 for work clothes and work boots. Payment will be made on November 1, or the first payday after November 1.

13.2 Special Licenses

13.2.1 Class A License: An employee who maintains a Class A license will receive a stipend of \$250 per year, which will be paid in a separate check on or before January 15th of each year.

14 DUE PROCESS PROCEDURES

14.1 Grievance Procedure

14.1.1 Informal Resolution of Disputes: In the event informal means of resolving differences between the Town and its employees fail, the following procedure shall be used to resolve such differences.

14.1.2 Definition of Grievance: For the purposes of this collective bargaining agreement, a grievance shall mean any violation, misinterpretation, or improper application of the expressed provisions of this Collective Bargaining Agreement.

14.1.3 Step One - Formal Grievance: The Union may file a formal complaint on behalf of an aggrieved employee(s) with the Superintendent of Highways. The grievance shall specify the nature of the grievance, including the section of the collective bargaining agreement that was allegedly violated, a statement of facts, times and dates, and the remedy sought. The grievance shall be filed within thirty calendar days from knowledge of the occurrence, or when the Union should have had knowledge.

The Superintendent of Highways shall render a written decision within fourteen calendar days of receipt, which will be given to the Unit President, or designee.

14.1.4 Step Two - Appeal: If the response at Step One is unsatisfactory, the Union may present it, in writing, to the Town Supervisor within fourteen calendar days from receiving the Step One response, or when the Step One response should have been received.

The Town Supervisor shall render a written decision within fourteen calendar days of receipt, which will be given to the Unit President, or designee.

14.1.5 Step Three - Binding Arbitration: If the decision at Step Two is unsatisfactory, within thirty calendar days from receiving the Step Two response or when the Step Two response should have been received the Union may appeal the decision by applying to the Public Employment Relations Board for an arbitration hearing pursuant to the rules of the Public Employment Relations Board.

The conduct of the arbitration shall be under the exclusive jurisdiction and control of the arbitrator, which shall conform to applicable law. The decision of the arbitrator shall be final and binding upon all parties. No arbitrator functioning under these procedures shall have any power to amend, modify, or delete any provisions of this Collective Bargaining Agreement. The Town and the Union shall share the fees of the arbitrator equally.

14.1.6 Time Limits: In the event the Union does not advance the grievance to the next step within the established time limit, the grievance will be considered withdrawn and no further appeal will be accepted. The time limits may be extended by mutual agreement provided the extension is in writing, dated, and signed by the Union and the official who is to receive the grievance.

14.2 Disciplinary Procedure

14.2.1 Discipline for Just Cause: The Town will not subject an employee who has completed the probationary period, as defined in 4.1 above, to any disciplinary action or penalty except for just cause.

14.2.2 Notice of Discipline: The Town will provide the employee with a written Notice of Discipline, which will contain all charges and specifications and the penalty. Simultaneously, a copy of the notice will be sent to the Unit President and the CSEA Labor Relations Specialist.

14.2.3 Disciplinary Hearing: If the Union disagrees with the disciplinary action, the Union may appeal the matter, in writing, to the Town Supervisor. The appeal must be submitted in writing, within fourteen calendar days from receiving the Notice of Discipline. Failure to submit the appeal within said fourteen calendar days shall make the matter ineligible for future appeal under this Article.

Within seven calendar days after receiving the appeal, the Town Supervisor will meet with the disciplined employee and the designated representative of the Union. Within seven calendar days after said meeting, the Town Supervisor will issue a written response which will be given to the Unit President and CSEA Labor Relations Specialist.

14.2.4 Appeal of Disciplinary Action: If the Union is not satisfied with the response of the Town Supervisor, the Union may submit the matter to arbitration by filing a demand for arbitration with the State of New York Public Employment Relations Board in accordance with its rules and regulations. The demand for arbitration must be filed within fourteen calendar days of receiving the response from the Town Supervisor or when the response should have been received. Failure to file the demand within said fourteen calendar days shall make the matter ineligible for arbitration.

The conduct of the arbitration shall be under the exclusive jurisdiction and control of the arbitrator which shall conform to applicable law. All decisions rendered by the arbitrator shall be final and binding upon all parties. The fees of the arbitrator shall be shared equally by the Town and the Union.

14.2.5 Civil Service Rights: The procedure set forth above shall serve as the only method of resolving challenges to disciplinary action and wholly replaces the statutory provisions set forth in Section 75 and Section 76 of New York State Civil Service Law.

15 APPLICATION OF AGREEMENT

15.1 Duration of Agreement

15.1.1 This Collective Bargaining Agreement shall be effective from January 1, 2013 and expires on December 31, 2016, unless otherwise agreed to by the parties.

15.2 Impasse in Negotiations

15.2.1 In the event both parties are unable to reach agreement during contract negotiations, and in the event an agreement cannot be reached with the assistance of a mediator, the Town and the Union shall submit all issues on which agreement cannot be reached, to final and binding arbitration. Either party may apply to the State of New York Public Employment Relations Board for the purpose of selecting an arbitrator.

15.2.2 The arbitrator shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the arbitrator shall specify the basis for his/her findings, taking into consideration, in addition to any other relevant factors, the following: a) Comparison of wages, hours, and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities; and, b) The interest and welfare of the public and the financial ability of the public employer to pay. The decision of the arbitrator shall be final and binding on both parties. The fees and expenses of the arbitrator shall be equally shared by the Town and the Union.

15.3 Complete Agreement

15.3.1 This collective bargaining agreement will constitute the entire agreement between the parties. Any past practice that existed up until the date of the signing of this collective bargaining agreement may not be submitted to the grievance and arbitration procedure, however, the Town recognizes the right of the Union to file with the Public Employment Relations Board an improper practice charge against the Town for a unilateral change in an established term or condition of employment.

15.4 Savings Clause

15.4.1 If any provision of this Collective Bargaining Agreement shall be judged illegal or invalid by a court of competent jurisdiction, or as the result of the decision of an authorized government agency, such decision shall not invalidate the remaining portions of this Collective Bargaining Agreement. In the event of such a judgment or decision, the Town and the Union will meet to negotiate a mutually satisfactory replacement provision.

15.5 Legislative Action

IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW OR BY PROVIDING THE ADDITIONAL FUNDS THEREFORE, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL.

15.6 Execution of Agreement

The parties have caused this collective bargaining agreement to be signed by their respective representatives on June 25, 2012.

**TOWN OF TUSTEN
INC.**

CIVIL SERVICE EMPLOYEES ASSOCIATION,

**Carol Ropke Wingert
Town Supervisor**

**Rocco DeGori, Jr.
Unit President**

**Michael A. Richardson
Labor Relations Consultant**

**Christopher Decker
Labor Relations Specialist**

APPENDIX A – Random Drug & Alcohol Testing Policy

The following amendments to the Town of Tusten Random Drug and Alcohol Testing Policy will constitute the agreement between the Town and the Union concerning random drug and alcohol testing of employees who are represented by the Union. This agreement is not intended to annul or supersede any of the provisions of the collective bargaining agreement (CBA) pertaining to discipline, except as specifically noted.

1. Where there is a conflict between this agreement and/or the collective bargaining agreement, and any of the provisions of the Town's policy, this agreement and/or the CBA will prevail provided they don't diminish the requirements of the Federal Highway Administration Regulations.
2. The Town policy will comply with Federal Highway Administration (FHWA) Regulations.
3. Random drug and alcohol testing of employees who belong to the bargaining unit will be limited to those employees who are subject to the FHWA regulations.
4. The Town may randomly test 50% of the average number of its subject employees annually for prohibited drugs. Such drugs are marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP).
5. The Town may randomly test 25% of the average number of its subject employees annually for alcohol.
6. If an employee who is on leave is randomly selected for drug and alcohol testing, the employee will not be required to return from leave to undergo random testing. However, the employee may be subject to testing upon returning to work.
7. Subject employees are required to undergo pre-employment testing (including when an employee transfers into a job), post accident, reasonable suspicion, random, and return to duty and follow up testing.
8. Only a supervisor or other Town official who has received the training specified in the FHWA Regulations (60 minutes of alcohol abuse and 60 minutes of prohibited drug abuse) may make a determination that an employee should be tested on the basis of reasonable suspicion. Reasonable suspicion that an employee is "under the influence" shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. In the event an employee is required to take a drug or alcohol test based on reasonable suspicion, the employee will have the opportunity to consult with a Union representative, provided it will not unreasonably delay the testing.
9. Tests for alcohol shall be performed with an evidentiary breath testing (EBT) device, and testing for prohibited drugs shall be performed by means of a split sample urine specimen. If a test center attendant is present for the urine collection, the attendant shall be the same sex as the person giving the urine sample.
10. The Town shall provide for the employee's transportation to and from the test site.
11. When an employee is required to submit to random, or post-accident, or follow up drug testing, the employee will have an opportunity to consult with a Union representative, provided it doesn't unreasonably delay the test.
12. Post-accident testing will be performed if an accident involves a fatality, a bodily injury treated away from the accident scene, if the motor vehicle(s) had to be towed away from the accident scene. Necessary medical treatment will not be delayed for the purpose of performing drug or alcohol testing.
13. Post-accident testing for alcohol may be done for up to 8 hours following the accident, and for up to 32 hours for prohibited drugs, following the accident.
14. Employees who recognize that they have an alcohol or substance abuse problem are encouraged to seek a remedy for their problem through the Employee Assistance Program. The employee will be responsible for any rehabilitation costs not paid for by the employee's insurance. The employee shall be

allowed leave (chargeable to the employee's accruals) for the purpose of participating in remedial treatment. The Town shall have the discretion of approving any additional unpaid leave the employee may require for the purpose of participating in remedial treatment.

15. If an employee tests positive for alcohol or prohibited drugs, the record of such positive result shall be kept confidential, separate from the employee's regular personnel file, and may not be disclosed without the employee's consent.

16. An employee who tests positive for alcohol during the performance of safety sensitive work, and whose blood alcohol content (BAC) is between .02 and .04 must be relieved from performing the safety sensitive work. Such employee may be reassigned to performing non-safety sensitive work, if available. If such work is not available, the employee will leave the work site. However, the employee may charge the employee's leave accruals. An employee whose BAC is found to be between .02 and .04 while performing safety sensitive work, more than once per year, may be subject to formal discipline for misconduct.

17. During the cold weather season (approximately 11/15 through 4/15), excluding occasions when there is a high probability that employees may be called back to work for snow or ice removal, an employee will be allowed two occasions per winter season, without penalty, to decline a call to return to work due to the possibility that the employee's BAC may exceed .02. If a third occasion arises during the same winter season, and the same employee declines a call to return to work due to the possibility that the employee's BAC may exceed .02, such employee will forfeit 8 hours of leave accruals. If a fourth occasion arises during the same winter season, and the same employee is unavailable to return to work due to the possibility the employee's BAC may exceed .02, the Town may require such employee to seek the assistance of a substance abuse professional (SAP) to determine whether or not the employee has an alcohol and/or substance abuse problem. The employee will notify the Town of the outcome of such evaluation, and will be responsible for participating in any required remedial treatment program. Furthermore, the employee will forfeit 8 hours of leave accruals and may be subject to additional discipline in accordance with section 14.2 of the CBA.

18. There will be no circumstances for which an employee will be allowed to work in an impaired condition, either due to alcohol or prohibited drugs. In the event an employee attempts to work in such condition, the supervisor or Town official responsible for making a determination of reasonable suspicion will instruct the employee to report for a drug or alcohol test. If the drug or alcohol test indicates a positive result (the BAC must exceed .04), the employee will be suspended without pay for one week. However, any additional leave beyond one week, that is required by the FHWA regulations may be chargeable to the employee's leave accruals. In the event a second occasion of reporting for work in impaired condition arises, the Town shall have the option of seeking the employee's discharge from service, pursuant to section 14.2 of the CBA.

In the event an employee's CDL license is suspended or revoked, he will be subject to discharge from employment. However, the employee may appeal any disciplinary action due to loss of license in accordance with Article 18.

19. The provisions of this policy may be amended by the mutual agreement of the Town and the Union to address problems that might arise as a result of conforming to the FHWA Regulations.